

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
REQUEST FOR CONTINUED EXAMINATION UNDER 37 CFR § 1.114
TRANSMITTAL

Docket No.: 19603/3296 (CRF D-2098B)

Examiner: G. Bugaisky

Art Unit: 1653

Cnfrm. No.: 3745

Commissioner for Patents
 Washington, D.C. 20231
 BOX: RCE

This is a Request for Continued Examination (RCE) under 37 CFR § 1.114 of prior application number 09/596,784, filed on June 19, 2000, of Adam J. Bogdanove, Jihyun Francis Kim, Zhong-Min Wei, and Steven V. Beer entitled **HYPERSENSITIVE RESPONSE ELICITOR FROM ERWINIA AMYLOVORA, ITS USE, AND ENCODING GENE**.

This Request is accompanied by submission(s) pursuant to 37 CFR § 1.114(b) and other materials as follows:

1. Enter the amendment previously filed on April 4, 2003 under 37 CFR 1.116 in the prior nonprovisional application.
2. An amendment (____ pages) is enclosed.
3. A new power of attorney is enclosed herewith.
4. Information Disclosure Statement (IDS) with PTO-1449 form (in duplicate) and copy of the reference(s) are enclosed herewith.
5. The filing fee is calculated on the basis of the claims existing in the prior application as amended above:

	(Col. 1)		(Col. 2)		(Col. 3)	a) SMALL ENTITY \$375	b) LARGE ENTITY \$750
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADD'L FEE	
BASIC FEE	XXXXXX	XXXXXX	XXXXXXXX	XXXXXX	XXXXXX	\$375	
TOTAL	14	MINUS	20	0	a) \$ 9 = b) \$18 =	\$ 0	
INDEP	1	MINUS	3	0	a) \$42= b) \$84	\$0	
[] FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM					See fee Schedule	\$0	
[] Extension of Time Fee (____ Months)							
TOTAL							\$375

04/25/2003 00000080 1 2801 \$375.00 04/25/2003

CK

- 2 -

6. A check in the amount of \$375.00 is enclosed to cover the above filing fee.

7. Please charge my Deposit Account No. _____ in the amount of \$ _____.
A duplicate copy of this sheet is enclosed.

8. The Commissioner is hereby authorized to charge fees which may be required, or credit overpayment to Deposit Account No. 14-1138. A duplicate copy of this sheet is enclosed.

9. Small entity status:

Applicant claims small entity status. (See 37 CFR 1.27.)

A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.

is no longer claimed.

10. A self-addressed, prepaid postcard for acknowledging receipt.

11. Other:

Address all future communications to (may only be completed by Applicant, or attorney or agent of record):

Michael L. Goldman
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, New York 14603-1051

Respectfully submitted,

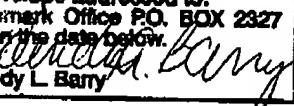
Date: April 22, 2003


Edwin V. Merkel
Registration No. 40,087

NIXON PEABODY LLP
Clinton Square, P.O. Box 31051
Rochester, New York 14603
Telephone: (585) 263-1128
Facsimile: (585) 263-1600

Certificate of Mailing - 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
U.S. Patent and Trademark Office P.O. BOX 2327
Arlington, VA 22202, on the date below.

Date 4/22/03  Wendy L. Barry

PATENT
Docket No.: 19603/3296 (CRF D-2098B)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Bogdanove et al.)	Examiner:
Serial No.	:	09/596,784)	G. Bugaisky
Cnfrm. No.	:	3745)	Art Unit:
Filed	:	June 19, 2000)	1653
For	:	HYPERSENSITIVE RESPONSE ELICITOR FROM <i>ERWINIA AMYLOVORA</i> , ITS USE, AND ENCODING GENE)	

CERTIFICATE OF FACSIMILE TRANSMISSION

U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202
Box: AF

Dear Sir:

I hereby certify that the accompanying Transmittal Letter (2 pages), Request for Five-Month Extension of Time (1 page), and Amendment Under 37 C.F.R. § 1.116 (6 pages plus 2 page Appendix) are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Date: April 4, 2003


Edwin V. Merkel
Registration No. 40,087

Nixon Peabody LLP
Clinton Square, P. O. Box 31051
Rochester, New York 14603
Telephone: (585) 263-1128
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PATENT
Docket No.: 19603/3296 (CRF D-2098B)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Bogdanove et al.))	Examiner:
Serial No.	:	09/596,784))	G. Bugaisky
Cnfrm. No.	:	3745))	Art Unit:
Filed	:	June 19, 2000))	1653
For	:	HYPERSENSITIVE RESPONSE ELICITOR FROM <i>ERWINIA AMYLOVORA</i> , ITS USE, AND ENCODING GENE)

U.S. Patent and Trademark Office
 P.O. Box 2327
 Arlington, Virginia 22202
 Box: AF

Sir:

Transmitted herewith is an Amendment Under 37 C.F.R. § 1.116 (4 pages) and Appendix (1 page) in the above-identified application. Also enclosed are:

- Request for Five-Month Extension of Time.
- Applicants claim small entity status. (See 37 CFR § 1.27.)
- The fee has been calculated as shown below:

(Col. 1)	CLAIMS REMAINING AFTER AMENDMENT	(Col. 2)	HIGHEST NO. PREVIOUSLY PAID FOR	(Col. 3)	a) SMALL ENTITY b) LARGE ENTITY	
					PRESENT EXTRA	RATE
TOTAL	14	MINUS	20	0	a) \$ 9= b) \$18	\$0
INDEP	1	MINUS	3	0	a) \$42= b) \$84	\$0
[] <input checked="" type="checkbox"/> Extension of Time Fee (5 Months)				See fee Schedule	\$985.00	
				TOTAL	\$985.00	

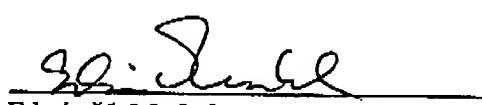
R6705761

- 2 -

A check for \$____ is enclosed to cover the Three-Month Extension of Time Fee.

Please charge my Deposit Account No. 14-1138 in the amount of \$985.00
A duplicate copy of this sheet is enclosed.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 14-1138.
A duplicate copy of this sheet is enclosed.

Date: April 4, 2003
Edwin V. Merkel
Registration No. 40,087

NIXON PEABODY LLP
Clinton Square, P.O. Box 31051
Rochester, New York 14603-1051
Telephone: (585) 263-1128
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RS795761

Received from <585 263 1600> at 9/30/03 4:37:02 PM [Eastern Daylight Time]

SEP-30-2003 16:44

NIXON, PEABODY 10TH

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Attorneys at Law

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*Office**See
30 Sep 2003*

585 263 1600 P.01

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To:	Company	Fax #:	Telephone #:
1) Examiner Low	USPTO	(703) 746-5040	(703) 308-2923
2)			
3)			
4)			
5)			

INTERNATIONAL PHONE NUMBERS MUST INCLUDE COUNTRY & CITY CODE. SEE LOCAL WHITE PAGES FOR CODES NEEDED.

From: Edwin V. Merkel	Date: September 30, 2003	No. of Pages: 8 (including this page)	
Comments:			
Re: Serial No. 09/596,784			

Original of the transmitted document will be sent by:

First Class Mail Overnight Mail Hand Delivery This transmission will be the only form of delivery of this document

IF YOU DO NOT RECEIVE ALL OF THESE PAGES, PLEASE CONTACT THE FAX OPERATOR AS SOON AS POSSIBLE AT: (585) 263-1660 or 263-1000 (ext. 1660). THANK YOU.

CONFIRMATION: DATE SENT _____ TIME _____ BY _____

INTEROFFICE TO: Albany Boston Buffalo Garden City Hartford Manchester New York City
 Northern Virginia Orange County Providence Rochester San Francisco Washington

To:	Company	Fax #:	Telephone #:
1) Examiner Low	USPTO	(703) 746-5040	(703) 308-2923
2)			
3)			
4)			
5)			

INTERNATIONAL PHONE NUMBERS MUST INCLUDE COUNTRY & CITY CODE. SEE LOCAL WHITE PAGES FOR CODES NEEDED.

From: Edwin V. Merkel	Date: September 30, 2003	No. of Pages: 8 (including this page)	Client/Matter: 19603/3296
User #: 5420	Ext: 1128	Disbursement Amount: \$	

UTILITY/DESIGN PATENT

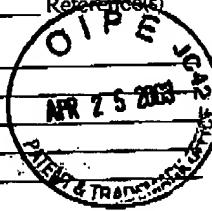
(appln)

RCE

Date: 4/22/03
Date of O.A.: _____

Received in the U.S. Patent & Trademark Office on the date stamped hereon
 via Express Mail # EV138585446US - Boyd, Danover et al.
 Case # 19603/3294 Applicant Apperson, Shirley Atty: EVN
 For Apperson, Shirley Response Letter Atty: EVN

VERIFIED BY: Asst: WLB Quality Control: _____ Claims
 Patent Appln. in _____ pgs. incl. Spec. and _____
 Transmittal in duplicate _____ pgs. _____ Drawings
 Decl. & Power of Atty. Assoc. Power of Atty.
 Assignment in _____ pgs. Small Entity Statement
 Information Disclosure Statement; PTO-1449 in duplicate with _____ References(s)
 Preliminary Amendment in _____ pgs.
 Check for \$ 375.00 Filing Fee _____
 Check for \$ _____ Fee for Filing Assignment _____

ENTERED
Nixon Peabody LLP

MAY 01 2003

FILE 19603/3294
Dkt 95